

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ERICSSON INC. AND
TELEFONAKTIEBOLAGET LM ERICSSON,

Plaintiffs,

vs.

SAMSUNG ELECTRONICS CO. LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,
AND SAMSUNG RESEARCH AMERICA,

Defendants

Civil Action No. 2:20-cv-380-JRG

SAMSUNG’S NOTICE OF CLARIFICATION

The Samsung Defendants file this notice to clarify a point referenced in the Court’s Memorandum Opinion and Preliminary Injunction (“Opinion”) regarding Samsung’s pending action at the United States International Trade Commission (ITC). Dkt. 45 at 12-13. The Opinion states that Samsung filed an ITC complaint on January 7, 2021 seeking injunctive relief “*against* Ericsson for Ericsson’s 4G and 5G complaint products based on alleged infringement of *Samsung’s* 4G and 5G SEPs--seeking the very type of injunctive relief the ASI bars Ericsson from seeking. *See* Certain Wireless Communications Equipment and Components Thereof, Inv. No. 337-TA-3522 (Jan. 7, 2021).” *Id.* (emphasis in original). The Opinion further states that “[i]f Samsung can seek redress of its claims through injunctive relief in the United States, it would be the height of inequity (and hypocrisy) to allow the ASI to tie Ericsson’s hands from doing the same.” *Id.* at 13.

Because Samsung’s ITC complaint was not discussed in the parties’ briefs or at the hearing, Samsung clarifies for the Court that Samsung’s action was a *non-SEP* action, *i.e.*, it does not

concern 4G or 5G standard-essential patents. Page 6, paragraph 17 of Samsung's ITC complaint, confirms this, stating "Samsung has not declared the Asserted Patents as potentially essential to any standard maintained by a standard setting organization." Attachment 1. Samsung's complaint is similar to a non-SEP action that Ericsson filed on January 4 with the ITC. Attachment 2 at p. 2 of Ericsson's Public Interest Statement (Ericsson stating that with regard to its ITC complaint, "[n]one of the Asserted Patents has been declared essential to any industry standard."). Thus, Samsung's ITC complaint does not seek the type of injunctive relief for SEPs that the ASI bars Ericsson from seeking, but seeks relief similar to an already-filed Ericsson ITC complaint likewise directed to non-SEPs.

Dated: January 11, 2021

Respectfully submitted,

/s/ Melissa R. Smith

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic services are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on January 11, 2021.

/s/ *Melissa R. Smith*